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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/787,418	02/26/2004	Jim D. Quade	TKG4303	4749

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EXAMINER
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BRAHAN, THOMAS J

ART UNIT	PAPER NUMBER
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3652

DATE MAILED: 07/05/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/787,418	Applicant(s) QUADE, JIM D.	
	Examiner Thomas J. Brahan	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 February 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/26/04</u> . | 6) <input type="checkbox"/> Other: _____  |

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1. The following is a quotation of the second paragraph of 35 U.S.C. § 112:  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which applicant regards as his invention.
2. Claims 1-20 are rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The use of the term "conventional" throughout the claims renders them indefinite, as it is unclear as to what would or would not be a conventional battery, having the scope of the claims is unclear. Would moving a new, non-conventional battery avoid the claims for the purposes of infringement determination?
3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:  
A person shall be entitled to a patent unless --  
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
4. The following is a quotation of 35 U.S.C. § 103(a) which forms the basis for all obviousness rejections set forth in this Office action:  
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.
5. Claims 1, 3, 5, 6 and 10 are rejected under 35 U.S.C. § 102(b) as being anticipated by Harding. Harding shows a battery changer comprising:  
a frame (14);  
a height adjustable leg (21) connected to the frame for raising and lowering the frame; and  
a roller (20) rotatably connected to the frame for receiving a vehicle battery thereon.  
The limitation of the battery changing being hydraulic is not given any patentable significance in claim 1, as the limitation is found only in the preamble of the claim. The limitation battery being from an electric vehicle, as recited in the last line of claim 1, is part of an intended use type limitation. Harding has an extendable scissors mechanism (26/27) with a pull knob (28), as recited in claims 3 and 5, and a push panel (27a), as recited in claim 6. The battery has a slotted pulling bracket (13a), as recited in claim 10.
6. Claims 1, 3, 4 and 6 are rejected under 35 U.S.C. § 102(b) as being anticipated by Leisher. Figures 6 and 7 of Leisher show an apparatus changer comprising:  
a frame (37);  
a height adjustable leg (35) connected to the frame for raising and lowering the frame; and  
a roller (38) rotatably connected to the frame.  
The intended use of the device for battery changing is not given any patentable significance in claim 1, as the limitation is found only in the preamble of the claim. The roller limitation "for receiving a conventional electric

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vehicle battery, is an intended use type limitation. Leisher is an anticipation of the claims as it has all of the structures recited in claim 1, and could be used to move batteries. Leisher has a hydraulically actuated extendable scissors mechanism (45), as recited in claims 3, 4 and 6.

7. Claims 1 and 10 are rejected under 35 U.S.C. § 102(b) as being anticipated by Reaney. Reaney shows a battery changer comprising:

- a frame (18);
- a height adjustable leg (44) connected to the frame for raising and lowering the frame; and
- a roller (22) rotatably connected to the frame for receiving a vehicle battery thereon.

The limitation of the battery changing being hydraulic is not given any patentable significance in claim 1, as the limitation is found only in the preamble of the claim. The limitation battery being from an electric vehicle, as recited in the last line of claim 1, is part of an intended use type limitation. Reaney has an slotted pulling bracket (94) connected to the battery, as recited in claim 10.

8. Claims 1 and 2 are rejected under 35 U.S.C. § 102(b) as being anticipated by Pfleger. Pfleger shows a battery changer comprising:

- a frame (6);
- a height adjustable leg (7) connected to the frame for raising and lowering the frame; and
- a roller (16) rotatably connected to the frame for receiving a vehicle battery thereon.

The height adjustable legs have an hydraulic actuator (20), as recited in claim 2.

9. Claims 1, 2, and 11 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Lashlee et al in view of Condict. Lashlee et al shows a battery changer comprising a frame (36), and a height adjustable leg (76) connected to the frame for raising and lowering the frame. Lashlee et al varies from the claims by not having a roller on the frame. Condict shows a similar battery changer with rollers (E and F) for reducing the friction and making the battery frames pass easily from the loading truck to the electric car, see page 1, lines 78-83. It would have been obvious to one of ordinary skill in the art at the time the invention was made by applicant to modify the frame (36) of Lashlee et al by providing it with rollers, for reducing the friction and making the batteries pass easily from the loading frame to the electric vehicle, as taught by Condict. The height adjustment leg (76) of Lashlee is hydraulically actuated, as recited in claims 2 and 11.

10. Claims 2, 7-9, 11 and 12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Harding in view of Pfleger. Harding shows the basic claimed battery changer, but varies from the claims by not having hydraulic actuation for the raising the frame (14). Pfleger shows a similar frame raised and lowered by hydraulic actuation (cylinder 20). It would have been obvious to one of ordinary skill in the art at the time the invention was made by applicant to modify the frame of Harding by having the leg raised and lowered by a hydraulic actuation, as to have a uniform vertical lifting motion, as taught by Pfleger. The hydraulic actuation of Pfleger includes drive chains (24 and 30) connected to the scissor mechanism (26/27), as broadly recited in claims 7 and 8, and a control panel (51), as recited in claim 9.


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11. Claim 4 is are rejected under 35 U.S.C. § 103a) as being unpatentable over Harding in view of Leiser or Legocki. Harding shows the basic claimed battery changer, as detailed above, but varies from the claims by not having hydraulic actuation for the scissor mechanism (26/27). Leiser shows a similar pusher with hydraulic actuation (cylinder 25). Legocki shows a similar pusher with hydraulic actuation (cylinder 124). It would have been obvious to one of ordinary skill in the art at the time the invention was made by applicant to modify the battery changer of Harding by having the scissor link pusher hydraulically actuated, for ease of moving the battery, as taught by Leiser or by Legocki.

12. Claims 13-20 are rejected under 35 U.S.C. § 103a) as being unpatentable over Harding in view of Pfleger, as applied above to claim 2, and further in view of Leiser or Legocki. Harding, as modified, shows the basic claimed battery changer, but varies from the claims by not having hydraulic actuation for the scissor mechanism (26/27). Leiser shows a similar pusher with hydraulic actuation (cylinder 25). Legocki shows a similar pusher with hydraulic actuation (cylinder 124). It would have been obvious to one of ordinary skill in the art at the time the invention was made by applicant to modify the battery changer of Harding by having the scissor mechanism hydraulically actuated, for ease of moving the battery, as taught by Leiser or by Legocki. The sliding extendable scissors mechanism (26/27) of Harding has a pull knob (28), as recited in claims 14 and 20, and a push panel (27a), as recited in claims 15 and 20. The hydraulic actuation of Pfleger includes drive chains (24 and 30) connected to the scissor mechanism (26/27), as recited in claims 16, 17 and 20, and a control panel (51), as recited in claims 18 and 20. The battery has a slotted pulling bracket (13a), as recited in claims 19 and 20.

13. Malloux, Bae et al, Kluttermann et al, Guimarin et al and Ciarla et al are cited as showing related battery changers.

14. An inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas J. Brahan whose telephone number is (571) 272-6921. The examiner's supervisor, Ms. Eileen Lillis, can be reached at (571) 272-6928. The fax number for all patent applications is (703) 872-9306. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Questions regarding access to the Private PAIR system, should be directed to the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Thomas J. Brahan  
Primary Examiner  
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